

JAN 25 2018

TONY R. MOORE, CLERK
BY: 
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

PATRICK ROBERTS,
Plaintiff

CIVIL ACTION NO. 16-CV-00849

VERSUS

JUDGE DRELL

VANTAGE DEEPWATER
DRILLING, INC.,
Defendant

MAGISTRATE JUDGE PEREZ-MONTES

JUDGMENT

The undersigned has considered the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and we have made an independent (*de novo*) review of the record, including the objections filed and responses thereto. Based upon this review, while the basic findings are correct, for the following reasons and in our appropriately exercised discretion, we do not adopt the recommendation of dismissal at this time. In further explanation of this ruling we note the following.

The Magistrate Judge was “spot on” in his observations about what happened in this case and his frustration with it was entirely both documented and justified. However, the objections filed by counsel for Plaintiff have convinced us that the dismissal remedy is too harsh and should not be imposed this time. That said, we observe that our non-dismissal decision is made on a razor thin basis. It is clear that Plaintiff has been seriously less than cooperative in moving this litigation forward. HAD HE NOT HAD A RATHER SUDDEN HEALTH CONDITION, his lack of cooperation would have been definitive and we would have dismissed. However, having practiced before the bar for 32 years and presided for nearly another 15, we have seen many situations, like

this one, where logistics sometimes get in the way of smooth case preparation and communication. For the reason of Plaintiff's ill health and for that reason only, we give the benefit of the doubt, as it is clear that Plaintiff's counsel was acting fairly diligently along the way. At the same time we notice just a tad of lying in wait by the Defendant, a practice which this judge does not condone.

It is frankly time for the parties to have another, updating, conference to prepare and submit a new, DETAILED and JOINT, plan of work for the remainder of this case. It shall be submitted to the undersigned on or before February 12, 2018 by joint motion. The new deadlines set forth there, once approved by the Court, will be fixed, firm, unchanging and binding. The failure of plaintiff to furnish necessary information timely will not be acceptable as an excuse on any future motion to dismiss for failure to comply. Whether Plaintiff is serious about his case will be determined in part by his actual compliance.

Accordingly, the Motion to Dismiss (Doc. No. 40) is presently DENIED.

THUS ORDERED AND SIGNED at Alexandria, Louisiana, on this 24th day of January, 2018.



DEE D. DRELL, JUDGE
UNITED STATES DISTRICT COURT